

1 **COMP**

2 Kathryn Holbert, Esq.  
3 Nevada Bar No. 10084  
4 Law Office of Brian D. Shapiro, LLC  
5 228 South 4<sup>th</sup> Street, Suite 300  
Las Vegas, NV 89101  
(702)386-8600, Fax (702)383-0994  
kholbert@brianshapirolaw.com  
Attorney for Plaintiff

E-filed 8-21-12

7 **UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF NEVADA**

10 In Re: MARIO FERNANDEZ TRABADO  
11 dba CLARK COUNTY PUBLIC AUCTION,

CASE NO. 12-16152-MKN

12 Debtor.

CHAPTER 7

13 BENSON HOPP,

14 ADVERSARY NO.

15 Plaintiff,

16 vs.

17 MARIO FERNANDEZ TRABADO dba  
CLARK COUNTY PUBLIC AUCTION,

18 Defendant.

20 **COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT**

21 Plaintiff, Benson Hopp ("Hopp"), by and through his counsel, hereby represents, as follows:

22 1. The Court has jurisdiction to hear this Complaint pursuant to 28 U.S.C. §§157(a),

23 (b)(1), (b)(2)(I) (core proceeding), 1334(b) and 11 U.S.C. §523.

24 2. BENSON HOPP, is and was at all times relevant hereto, a resident of California.

25 3. MARIO FERNANDEZ TRABADO dba CLARK COUNTY PUBLIC AUCTION

26 ("Defendant") is an individual, doing business as an auction company in Clark County, Nevada.

4. On July 26, 2009, Defendant sold various items to Plaintiff which were represented to be Michael Jackson memorabilia.

5. Plaintiff paid Defendant the total sum of \$23,293.20 for the items.

6. Plaintiff contracted with Heritage Auction, Inc. dba Heritage Auction Galleries, in Texas to sell the items.

7. After Heritage listed the items for sale, it was contacted by certain parties claiming to be the rightful owners of the items.

8. Heritage filed an interpleader complaint in Texas, naming all parties asserting an interest in the property.

9. The "rightful owners" of the items had rented a storage unit in Las Vegas, Nevada and claimed that the items had been stolen from the unit and sold without their knowledge or consent. 1

10. The Texas court determined that those parties were in fact the rightful owners of the property and they were awarded possession of the property.

11. Heritage's claims against Plaintiff were resolved pursuant to a Stipulated Judgment whereby Plaintiff agreed to pay Heritage the total sum of \$10,725.00.

12. Plaintiff filed a Third Party Complaint against the Defendant in the Texas matter alleging causes of action of Breach of Contract, Breach of Warranty of Title, and Deceptive Trade Practices.

13. Defendant did not appear in the Texas action and default judgment was entered against him on November 30, 2011 in the principal amount of \$187,980.00, plus prejudgment interest, attorney fees, costs and post judgment interest.

14. Plaintiff domesticated the Texas Judgment in Nevada and began executing upon it.

15. Defendant filed a voluntary Chapter 7 bankruptcy on May 23, 2012.

111

111

1 **FIRST COUNT**

2 16. Paragraphs 1 through 15 are hereby repeated and incorporated as if fully set forth  
3 herein.

4 17. Defendant represented to the Plaintiff that he was the rightful owner of the items of  
5 Jackson memorabilia which he sold to Plaintiff and further represented that he had good title to such  
6 items and the ability to transfer such good title to the Plaintiff.

7 18. Upon information and belief Defendant's representations to Plaintiff were false.

8 19. Plaintiff reasonably relied upon Defendant's representations and paid him money as  
9 a result of such representations.

10 20. Pursuant to 11 U.S.C. §523(a)(2)(A) the debt represented by the Note is  
11 non-dischargeable as the money Plaintiff paid to Defendant would not have been paid to him absent  
12 his misrepresentations.

13 WHEREFORE, Plaintiff, Benson Hopp prays this Honorable Court for judgment determining  
14 that the judgment Plaintiff obtained against the Defendant in Texas is non-dischargeable, and/or any  
15 other such relief as the Court may deem appropriate.

16 ///

17 DATED: 8-21-12



18 Kathryn Holbert, Esq.  
19 Nevada Bar No. 10084  
20 LAW OFFICE OF BRIAN D. SHAPIRO, LLC  
21 228 S. 4<sup>th</sup> Street, Suite 300  
22 Las Vegas, NV 89101  
23 Telephone: (702) 385-8600  
24 Facsimile: (702) 383-0994  
25 kholbert@brianshapirolaw.com  
26 Attorney for Plaintiff  
27  
28